

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IN RE HAWAIIAN RIVERBEND, LLC,  
Debtor.

Case No. [22-cv-06770-VC](#)

**ORDER DENYING MOTION FOR  
STAY**

Re: Dkt. No. 3

The emergency motion to stay foreclosure pending appeal is denied.


Smith and Miroyan ask the Court for a stay under Bankruptcy Rule 8007. Rule 8007 provides that “[o]rdinarily, a party must move first in the bankruptcy court for...a stay of a judgment, order, or decree of the bankruptcy court pending appeal.” Fed. R. Bankr. P. 8007(a)(1)(A). If the movant fails to do so, the movant must “show that moving first in the bankruptcy court would be impracticable.” Fed. R. Bankr. P. 8007(b)(2)(A). “[D]istrict courts routinely dismiss motions for a stay pending appeal when stay relief is not first sought from the bankruptcy judge and the failure to do so is not adequately explained.” *In re BGI, Inc.*, 504 B.R. 754, 761 (S.D.N.Y. 2014).

Based on this record, Smith and Miroyan have not moved for a stay in bankruptcy court, and they have not explained their failure to do so. Moreover, even if Smith and Miroyan had unsuccessfully sought a stay in bankruptcy court, this emergency motion would be denied because Smith and Miroyan have failed to show any likelihood of success on the merits of their claim. *See generally In re Hawaiian Riverbend, LLC*, No. 22-50314 SLJ (Bankr. N.D. Cal. Nov. 3, 2022).

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**IT IS SO ORDERED.**

Dated: November 25, 2022



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VINCE CHHABRIA  
United States District Judge